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└─ San Diego County Code of Regulatory Ordinances


└─ TITLE 6 HEALTH AND SANITATION*

└─ DIVISION 3. CROPS AND PLANTS

└─ CHAPTER 4. AGRICULTURAL ENTERPRISES AND CONSUMER INFORMATION*

 SEC. 63.401. STATEMENT OF PURPOSE.


 SEC. 63.402. AGRICULTURAL LAND CONVERSION.


 SEC. 63.403. PROHIBITION.

 SEC. 63.404. NOTICE TO PROSPECTIVE BUYERS AND OCCUPIERS.

 SEC. 63.405. AGRICULTURAL ENTERPRISE ENROLLMENT.

 SEC. 63.406. DISCRETIONARY LAND USE PERMITS.

 SEC. 63.407. FEES.

 SEC. 63.408. [RESERVED.]

San Diego County Code of Regulatory Ordinances

TITLE 6 HEALTH AND SANITATION*

DIVISION 3. CROPS AND PLANTS

CHAPTER 4. AGRICULTURAL ENTERPRISES AND CONSUMER INFORMATION*

***Note**--Chapter 4, Cotton, Sections **63.401** and 63.402, repealed by Ord. No. 2797 (N.S.), effective 3-25-65. New Chapter 4, Agricultural Enterprises and Consumer Information, Sections 63.401--63.408, added by Ord. No. 7408 (N.S.), effective 12-10-87.

San Diego County Code of Regulatory Ordinances
TITLE 6 HEALTH AND SANITATION*
DIVISION 3. CROPS AND PLANTS

SEC. 63.401. STATEMENT OF PURPOSE.

The purpose and intent of this Chapter is, in accordance with State law, to define and limit the circumstances under which agricultural enterprises activities operations, and facilities shall constitute a nuisance. It is also the purpose of this Chapter to recognize that the commercial agricultural industry in the County of San Diego is a significant element of the County's economy and a valuable open space/greenbelt resource for San Diego County residents. To further this purpose, it is the intent of this Chapter to recognize that conflicts can occur between agriculture and certain other land uses; and to provide a procedure which will enhance the County's ability to identify and evaluate the potential conflicts between a land use proposal and an agricultural enterprise when the land use proposal is adjacent to, or in close proximity of, an agricultural enterprise. Finally, it is the objective of this ordinance to establish a system that will enable prospective purchasers and occupants of property adjacent to or near agricultural land or operation within one mile of an agricultural land or operation within one mile of an agricultural enterprise to be notified of the inherent potential conditions associated with such purchase or occupancy, including, but not limited to, noise, odors, dust, insects, rodents, and chemicals that may accompany agricultural enterprises. This ordinance is not to be construed to in any way modify or abridge the State law set out in California Civil Code, Section 3482.5, relative to agricultural nuisances.

San Diego County Code of Regulatory Ordinances
TITLE 6 HEALTH AND SANITATION*
DIVISION 3. CROPS AND PLANTS

SEC. 63.402. AGRICULTURAL LAND CONVERSION.

This Chapter shall be construed as a means to accomplish the particular purposes set forth above. It shall not be construed to imply that agricultural land, or land that is used for agricultural purposes, is required to remain in any particular use or zone. It is acknowledged that agricultural land or land that is used for agricultural purposes, whether zoned for agriculture or not, may be converted to other uses or zones.

San Diego County Code of Regulatory Ordinances
TITLE 6 HEALTH AND SANITATION*
DIVISION 3. CROPS AND PLANTS

SEC. 63.403. PROHIBITION.

Pursuant to the provisions of Civil Code Section 3482.5:

(a) No agricultural enterprise, activity, operation, or facility, or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards, as established and followed by similar agricultural operations in the same locality, shall be or become a nuisance, private or public, due to any changed condition in or about the locality, after the same has been in operation for more than three years if it was not a nuisance at the time it began.

(b) Subdivision (a) shall not apply if the agricultural enterprise, activity, operation, or facility or appurtenances thereof obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin, or any public park, square, street, or highway.

(c) This section shall not invalidate any provision contained in the Health and Safety Code, Fish and Game Code, Food and Agricultural Code, or Division 7 (commencing with Section 13000) of the Water Code, or any other applicable County Ordinance, if the agricultural enterprise activity, operation, or facility, or appurtenances thereof, constitute a nuisance, public or private, as specifically defined or described in any such provision.

(d) For purposes of this Chapter, the term "agricultural enterprise, activity, operation, or facility, or appurtenances thereof" shall include, but not be limited to, the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural commodity, including timber, viticulture, apiculture, or horticulture, the raising of livestock, fur bearing animals, fish, or poultry, and any practices performed by a farmer or on a farm as incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market, or to carriers for transportation to market.

San Diego County Code of Regulatory Ordinances
TITLE 6 HEALTH AND SANITATION*
DIVISION 3. CROPS AND PLANTS

SEC. 63.404. NOTICE TO PROSPECTIVE BUYERS AND OCCUPIERS.

(a) Any person selling, leasing or renting real property, which is within an agricultural area may notify any prospective purchaser or occupier of such real property in writing as follows:

The subject property may be located within one mile of agricultural enterprises. Occupants of this property may be exposed to inconveniences or irritations arising from agricultural enterprises, including but not limited to, cultivation, plowing, spraying, pruning, harvesting, drying, and crop protection from the elements or depredation which generates dust, smoke, noise, insects, rodents and odor, and the use of agricultural chemicals, including but not limited to herbicides, insecticides, fungicides, rodenticides, and fertilizers. Occupants of the property may be required to accept such inconveniences and irritations, unless the agricultural enterprises constitute a public or private nuisance despite the provisions of Section 3482.5 of the Civil Code or Section 63.403 of the San Diego County Code. It is understood that agricultural uses may be altered or expanded in the future. Further information concerning enrolled agricultural activities or enterprises within one mile of this property may be obtained from the County Department of Agriculture, Weights and Measures upon the payment of the applicable fees under the California Public Records Act.

(b) For the purposes of this Chapter, an agricultural area is defined as property which is: (1) within an agricultural zone; (2) being used for an agricultural activity or operations; or (3) located within one mile of the boundary of property which is being used for an enrolled agricultural enterprise as defined in Section 63.405.

San Diego County Code of Regulatory Ordinances
TITLE 6 HEALTH AND SANITATION*
DIVISION 3. CROPS AND PLANTS

SEC. 63.405. AGRICULTURAL ENTERPRISE ENROLLMENT.

- (a) In order to enhance the implementation of the provisions of Civil Code Section 3482.5 and Section 63.403 of this Chapter, the owner or operator of an agricultural enterprise may enroll with the County Department of Agriculture, Weights and Measures pursuant to this section. The enrollment shall be on a form and contain information prescribed by the Agricultural Commissioner/Sealer of Weights and Measures; and shall be accompanied by a fee established pursuant to Section 63.407. The enrollment authorized by this Section will provide the County of San Diego with information concerning the enrolled agricultural enterprise which may be used in the County's review of discretionary land use applications.
- (b) The agricultural enterprise enrollment program authorized by this section shall be limited to agricultural enterprises which have a gross production value of \$1,000 per year for each of the three prior years. Agricultural enterprises meeting these criteria may enroll annually with the County Department of Agriculture/Weights and Measures providing proof satisfactory to the Agricultural Commissioner/Sealer of Weights and Measures that they meet the criteria of this subsection.
- (c) The County Department of Agriculture/Weights and Measures shall carry out the enrollment program authorized by this section; and provide the information required by Section 63.406 to the County Department of Planning and Land Use.
- (d) The agricultural enterprise enrollment provided by this Section shall be valid only during the calendar year of application.

(Amended by Ord. No. 9273 (N.S.), effective 12-15-00)

San Diego County Code of Regulatory Ordinances
TITLE 6 HEALTH AND SANITATION*
DIVISION 3. CROPS AND PLANTS

SEC. 63.406. DISCRETIONARY LAND USE PERMITS.

The Department of Planning and Land Use shall notify the County Department of Agriculture/Weights and Measures of all discretionary land use permit applications within one mile of an enrolled agricultural operation or enterprise. The County Department of Agriculture/Weights and Measures shall review those discretionary land use permits which the Department is notified of and make applicable determinations and notifications to the Department of Planning and Land Use as to the nature of such enrolled agricultural activity or enterprise and any other information it may deem appropriate to the permit application. The Department of Planning and Land Use shall use the information provided by the County Department of Agriculture/Weights and Measures in the review of the discretionary land use permit.

San Diego County Code of Regulatory Ordinances
TITLE 6 HEALTH AND SANITATION*
DIVISION 3. CROPS AND PLANTS

SEC. 63.407. FEES.

The Board of Supervisors shall, by resolution, establish fees for agricultural activity or enterprise enrollment. Said fees shall not exceed \$15 per property per year. Fees for providing enrollment information shall not exceed actual costs to the Department of Agriculture/Weights and Measures. An agricultural enterprise may enroll for a period of one to three years.

(Amended by Ord. No. 8358 (N.S.), effective 3-17-94)

San Diego County Code of Regulatory Ordinances
TITLE 6 HEALTH AND SANITATION*
DIVISION 3. CROPS AND PLANTS

SEC. 63.408. [RESERVED.]

(Repealed by Ord. No. 8358 (N.S.), effective 3-17-94)